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EXAMINER

MAYO, TARA L

ART UNIT PAPER NUMBER

3671

DATE MAILED: 06/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/785,024

Applicant(s)

BLEVINS, JERRY L.

Examiner

Tara L. Mayo

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 March 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 9-11 is/are rejected.
- 7) ☒ Claim(s) 6-8 and 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The prior objection to the Abstract has been overcome by the response filed 07 March 2005 - the response including a replacement Abstract.

Claim Objections

2. Claims 1 and 9 are objected to because of the following informalities: minor grammatical errors, and lack of antecedent basis.

In claim 1 on lines 19 and 21, delete "base" and insert therefor --bases are--.

In claim 9 on line 6, delete "patent" and insert therefor --patient--.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1 through 5 are rejected under 35 U.S.C. 102(b) as being anticipated by
Brandorff et al. '761, as seen in Figures 1D, 3 and 8, shows a patient lifter comprising:
with regard to claim 1,

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a substantially planar patient support (103) for supporting a patient having a top surface, a bottom surface, a first side edge, a second side edge, a top edge and a bottom edge, the distance between the top and bottom edges defining a first width;

a support frame for supporting said patient support, said support frame attached to said first side edge and comprising at least one post (40) and a cross member (26); and

a pair of bases (left and right elements 22 & 27) extending outwardly from said support frame and engaging the ground, said pair of bases comprising a first base having a first end attached to said support frame and a second end spaced from said support frame and a second base having a first end attached to said support base and a second end spaced from said support frame;

wherein said pair of bases have a first position with said first and second bases extending from said support frame toward said second side edge, said second ends of said first and second bases spaced from each other by a second width smaller than said first width and a second position wherein said second ends of said first and second bases are spaced from each other by a third width (as seen in Figure 8) greater than said first width;

with regard to claim 2,

wherein said support frame comprises a pair of posts (left and right elements 21), said cross member extending between said pair of posts;

with regard to claim 3,

wherein said first base and said second base are parallel in the first position;

with regard to claim 4,

wherein said first and second bases are pivotally connected to said support frame; and

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with regard to claim 5,

wherein said first and second bases are rigidly connected to said support frame (via elements 36L & 36R).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 9 through 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schaal et al. (U.S. Patent No. 4,939,801) and Nanahara (U.S. Patent No. 6,691,345 B2).

Schaal et al. '801, as seen in Figure 1, shows a patient lifter (10) comprising:
with regard to claim 9,

a patient support (20, 22) for supporting a patient having a top surface, a bottom surface, a first side edge, a second side edge, a top edge and a bottom edge, the distance between the top and bottom edges defining a first width; and

a support frame for supporting said patient support, said support frame attached to said first side edge and comprising at least one post (30) and a cross member (14).

Schaal et al. '801 disclose all of the features of the claimed invention with the exception(s) of:

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with regard to claim 9,

a railing extending upward from the second side edge; and

at least one L-shaped arm having one end connected to the railing and the other end pivotally connected to the bottom surface of the support surface;

with regard to claim 10,

the at least one L-shaped arm including a first section and a second section pivotally connected together; and

with regard to claim 11,

two L-shaped arms.

Nanahara '345, as seen in Figure 1, shows a lift mechanism comprising railings (113) and two L-shaped arms (108) having one end connected to the railing and the other end pivotally connected to a bottom surface (103) of a support surface (102 and 103, collectively), wherein each L-shaped arm includes a first section (110) and a second section (111) pivotally connected together (115).

With regard to claims 9 through 11, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the device shown by Schaal et al. '801 such that it would include railings and L-shaped arms as taught by Nanahara '345. The motivation would have been to provide the device with a means for positioning a patient on the support surface.

Terminal Disclaimer

7. The terminal disclaimer filed on 07 March 2005 disclaiming the terminal portion of any patent granted on this application which would extend beyond the expiration date of U.S. Patent No. 6,651,280 has been reviewed and is accepted. The terminal disclaimer has been recorded.

Allowable Subject Matter

8. Claims 6 through 8 and 12 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Response to Arguments

10. Applicant's arguments filed 07 March 2005 have been fully considered but they are not persuasive.

In response to Applicant's statement Brandorff et al. '761 fail to teach a substantially planar patient support as required by claim 1, Applicant is directed to element 103 shown in Figure 3 of the patent.

In response to Applicant's argument Nanahara '345 fails to teach the at least one L-shaped arm having an end connected to a bottom surface of a support surface, the Examiner contends the claimed limitation is met because the arms (108) are connected to a bottom member (103) of a support surface (102 and 103, collectively).

In response to Applicant's argument Nanahara '345 fails to teach the first and second sections of the L-shaped arm being pivotally connected together, the Examiner contends the claim does not require relative movement between the two sections as argued on page 7 of the Remarks, but merely rotation about a pivot point.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

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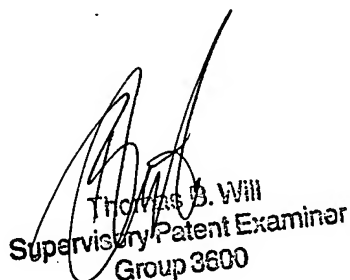
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tara L. Mayo whose telephone number is 571-272-6992. The examiner can normally be reached on Monday through Friday 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas B. Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



26 May 2005



Thomas B. Will
Supervisory Patent Examiner
Group 3600